

State of New Jersey
Department of Labor and Workforce Development
Board of Review

MEMORANDUM

To: Cornelia Calderone, Chair, Joseph Sieber,
Vice Chairman, and Frank Serico, Member

From: Jerald Maddow, Appellate Specialist
Board of Review

Subject: Minutes of the September 6, 2006
Board of Review Meeting

Date: September 7, 2006

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO CHANGE OR MODIFICATION BY THE BOARD OF REVIEW AT ITS NEXT MEETING. NO DECISION OF THE BOARD OF REVIEW IS FINAL UNTIL IT HAS BEEN MAILED TO THE INTERESTED PARTIES.

1. **FORMAL OPENING:** A regular meeting of the Board of Review, Department of Labor was held on Wednesday, September 6, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey. Notice of said meeting was posted in the Board of Review's office, filed with the Secretary of State, and published annually in *The Trenton Times* and *The Star Ledger*. It was noted that the next regular meeting of the Board of Review is scheduled for Wednesday, September 13, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey.

Roll Call: Present: Ms. Calderone, Chair
Mr. Sieber, Vice Chair
Mr. Serico, Member
Mr. Maddow, Appellate Specialist
Absent: Mr. Yarbrough, Executive Secretary

2. Following a motion by Mr. Serico and seconded by Ms. Calderone, the minutes of the August 30, 2006 meeting were approved.

3. New Business

(a) 112,003

Mr. Morley presented this case that involved a claimant who is requesting training under the Trade Readjustment Act (TRA). The Appeal Tribunal dismissed the appeal on the grounds that the claimant had appealed from an out-of-state determination. Following discussion, the Board noted that the claimant's appeal is from the Deputy's failure to pay TRA benefits. It was also noted that the Deputy also filed an appeal. The

Board voted to remand the matter for additional testimony from the claimant and from the TRA specialist and supervisor. Mr. Morley will prepare the remand.

(b) 113,803

As described by Mr. Morley, this case involved a claimant who failed to report earnings from two part-time jobs while collecting unemployment. The Appeal Tribunal held the claimant's receipt of benefits to be due to fraud and held the claimant liable for refund, disqualified for benefits, and subject to fines. After discussion, the Board noted that additional testimony was needed regarding the Division's policies and instructions given to the claimant regarding the reporting of wages. Mr. Morley will prepare the remand.

(c) 117,207

Mr. Maddow described this case that involved a claimant who was separated from employment for failing to properly request an extension of a medical leave of absence by January 13, 2006. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a). The Board noted that the employer was aware of the claimant's medical condition and that the claimant was still unable to work at the time of the separation. As a result, the Board voted to reverse the Appeal Tribunal and hold no disqualification under N.J.S.A. 43:21-5(a) or N.J.S.A. 43:21-5(b). Mr. Maddow will prepare the remand.

(d) 114,491

Ms. Futterman presented this case that involved a claimant who left work voluntarily as a result of conflicts with co-workers and of an alleged hostile work environment. The Appeal Tribunal held the claimant disqualified under N.J.S.A. 43:21-5(a). The Board noted that the employer witness did not have firsthand testimony with respect to the claimant's allegations. Following discussion, the Board voted to remand the matter with subpoenas for the co-workers. Ms. Futterman will prepare the remand.

(e) 112,639

As presented by Ms. Keller, this case involved a claimant who was separated from employment after discussing a change in her work schedule or job title so that she could attend school. The Appeal Tribunal had held the claimant disqualified under N.J.S.A. 43:21-5(a). The Board noted that the record was incomplete with regard to when the claimant was to begin school. After further discussion, the Board voted to remand the case for additional testimony from the claimant and the employer. Ms. Keller will prepare the remand.

4. Public Portion:

Ms. Kathleen Wardell, Unemployment Technician, alerted the Board that N.J.A.C. 12:17-14.2, regarding a waiver of recovery of benefit overpayment, has been amended.

There being no further business to transact, a motion was made by Mr. Sieber to adjourn the meeting. Mr. Serico seconded the motion.

SUBMITTED FOR APPROVAL:

Jerald Maddow
Appellate Specialist

JM:gs